IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.126 OF 2006
IN
WRIT PETITION NO.60 OF 2004

Crystal Co-op. Housing Society Ltd.....Petitioner
Vs.
Municipal Corporation of Greater Mumbai & Ors. .....Respondents

Ms. Rumana Bagdadi i/b. Ms. Sumedha Rao for the Petitioner in support of Notice of Motion.
Mrs. Shobha Ajit Kumar for Respondent Nos. 1 to 3.
Mr. A.G. Damle for Respondent NO.4.
Mr. N.G. Bhat for Respondent No.5.

CORAM: F.I. REBELLO &
S.R. SATHE, JJ.
DATE : 17th April,2006

P.C.:

. In our opinion this is nothing but an attempt to wriggle out of the order of this Court. The order dated 7th July, 2004 was clear. The Builder was directed to comply with what is stated in para.4(c) of the affidavit in reply. It appears that thereafter the Contempt Motion was taken out. The learned Judge whilst disposing of the Motion, set out therein that the affidavit discloses that Condition Nos.3, 4 and 7 have not been complied with. It is in those circumstances that the present motion has been taken out. We fail to appreciate as to how the present Motion will lie as in our order we have clearly stated that the parties were bound to comply with para.4(c) of the afidavit in reply. It is only on complying with those conditions could the O.C. have been obtained.

. With a a view, however, not to create

further litigation we clarify that the parties must comply with the direction Nos. 3, 4 and 7 to the extent not complied. The Corporation has only made a concession in so far as handing over possession. That can be seen from the letter dated 11th October, 2005. In other words in order to get O.C. the following will have to be complied with:-

(i) N.O.C. of A.A. & C., K/E Ward regarding property tax clearances if not already submitted to be submitted both by the builder and the Society.

(ii) In so far as condition No.4 is concerned, handing over possession will be in terms of letter dated 11th October, 2005. Separate PRC in the name of M.C.G.M. shall be submitted.

(iii) Non-Agricultural Land (N.A.) permission of C.T.S. Nos.264 and 265 from Revenue Authority of Government of Maharashtra along with amalgamated PRC of above, both the C.T.S. shall be submitted.

2. On behalf of the Corporation learned Counsel points out that at the time of obtaining O.C. the builder will have to file a canvas plan showing all the internal changes that have been made. On behalf of the builder it is submitted that they have not done the internal changes, but the members of the society have done that. According to the society it is the builder who has done the internal changes.

We do not propose to say anything in the matter. Suffice it to say that it was the builder who had to obtain the O.C. and the builder must comply with all the requirements. If according to the builder it is the members of the society who have done the illegal construction they may point out that to the Corporation when they file the plan.

. With the above observation Motion stands disposed of.

(F.I. REBELLO, J.)

(S.R. SATHE, J.)